

Chief, SE/Admin

24 March 1954

VIA: DD/P-Admin

Office of General Counsel

Dependency Status of Mothers or Mothers-in-law
Accompanying Employees to Overseas Station

1. In your memorandum dated 17 March 1954 a request was made for a clarification of the dependency status of mothers and mothers-in-law of employees who were about to embark to overseas stations. In the first case the proposed dependent is of advanced age and receives income from part-time employment and in the second case the proposed dependent, i.e., the mother, is presently employed full time in the Department of State. In each instance the proposed dependent does not now meet the requirements for dependency in that the employee does not contribute 50% or more of her support. This assumption must at least be made in each case for lack of additional facts. In each case the proposed dependent intends to give up her present source of income prior to the effective date of the orders transferring the employee to his overseas station.

2. Four questions have been posed by paragraph 3 of your memorandum. The first two of these are answered by the following discussion. Travel expenses and temporary living allowances are allowable if the person is named as a dependent of the employee in travel orders authorizing her travel and temporary living allowance. A mother or mother-in-law is clearly entitled to be included in the category of dependents, provided she receives 50% or more of her support from the employee. This latter requirement is set forth

Even though the necessary relationship and degree of support exist in the case of a mother or mother-in-law, she is still not entitled to be included in the travel orders as a matter of right. Whether she is a bona fide dependent is a matter of administrative determination. The administrative officer should be conscious of the trust of his office in exercising this discretion.

3. At the time the travel orders of the employee become effective in the instant cases, it is the intention of the employee that his proposed dependent will meet the requirements of this Section. In preparing the travel orders of the employee the administrative officer in charge will be presumed to include as dependents, authorized to travel at Agency expense, those persons who are in fact and in good faith actual dependents of the employee. It is not a matter of right to the employee himself, to have all persons meeting these requirements authorized to accompany

him to his post of duty. There are many circumstances that may affect the determination of whether the request that these dependents accompany him is made in good faith and based upon actual fact. These must be learned from a detailed discussion of all the circumstances with the employee, i.e., whether the dependent is able to provide his or her own living in this country in the absence of the employee and whether or not the dependent is giving up his or her employment merely to enjoy a vacation trip by virtue of a technical status of dependency. We suggest that in the instant cases, if the administrative officer should determine that the dependent is giving up employment because it produces insufficient income to support that dependent during the absence of the employee, there is some justification for authorizing the travel of that dependent. There are certain other circumstances such as sickness in the family or the care of children that would have a bearing upon whether travel should be authorized in the instant cases. If the mother or mother-in-law does not receive 50% or more of her support from the employee at the time travel orders are signed, the facts do not exist whereby the administrative officer can determine that the person is a bona fide dependent meeting the requirements of the regulation, and the officer has no authority to sign the travel orders.

4. Your memorandum further raises the question as of what time dependency should be determined. It is our opinion that the technical requirements which are minimum in nature must exist on the date travel orders are signed as outlined above.

5. Your memorandum also raises a question of whether the fact that the dependent might work in the field would alter the dependency status. It is quite likely that such might be the case, provided such work was performed for some employer other than our organization. The determination of the status of dependency as required by the regulation is not concerned with the amount of money earned by the dependent, but rather the proportion of the dependent's support that is contributed by the employee. Should the dependent procure employment with a private agency overseas which yields more than 50% of that dependent's support, a change of status might be effected. Such a change would not be retroactive.

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